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UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA
 CIVIL MINUTES-GENERAL

Case No.: CV 02-7624 LGB (SHx)

Date: November 30, 2004

Title: Perfect 10, Inc. v. CCBill LLC, et al.

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DOCKET ENTRY

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PRESENT: Hon. Lourdes G. Baird, United States District Judge

Catherine Jeang
 Deputy Clerk

None Present
 Court Reporter

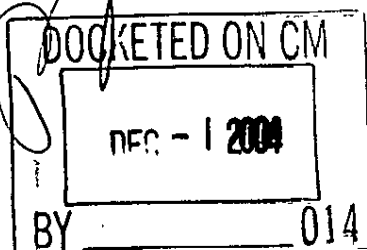
ATTORNEYS PRESENT FOR PLAINTIFFS: ATTORNEYS PRESENT FOR DEFENDANTS:
 None Present None Present

PROCEEDINGS: In Chambers

The Court is in receipt of the Proposed Judgment by Defendants CCBill and CWIE, the Plaintiff's objection to that proposed judgment, and the Defendants Reply. The parties disagree on whether this Court has ruled on attorney's fees for the underlying copyright claims in this case. The Court's November 9, 2004 Order Granting Plaintiff's Motion for Order to Dismiss under FRCP Rule 41 ("Order") stated that the Court would not award attorneys fees in this action, but did not specifically address the issue of attorney's fees for the copyright claims. (Order at 8).

The Plaintiffs brought copyright claims under 17 U.S.C. § 505. This statute provides that a court has the discretion to award reasonable costs and attorney's fees to the prevailing party as part of the costs. Id.; Fogerty v. Fantasy, Inc. 510 U.S. 517, 534 (1994). There is no precise rule or formula for the court to follow in making this determination but the court should exercise equitable discretion and can consider factors including frivolousness, motivation, objective reasonableness, and the need in particular circumstances to advance considerations of compensation and deterrence. Id. at 134, FN 19.

As the Court's Order stated, the Plaintiff brought this claim in good faith given the similarity of the parties' images and presented a close question of prevailing law on the copyright



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claims. (Order at 7-8.) Since this case presented close factual and legal issues it is not a case where the court should compensate the Defendant for the costs of defending the case or deter the Plaintiff from bringing such suits. Therefore, as stated in the Court's November 9, 2004 Order, the Court does not award attorney's fees in this case.

Deputy Clerk 